

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

DEBRA BOONE O'BRIEN,

Plaintiff,

Case No. 15-cv-12200

v

Honorable Thomas L. Ludington  
Magistrate Judge Elizabeth A. Stafford

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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**ORDER ADOPTING THE REPORT AND RECOMMENDATION,  
GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT,  
DENYING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT,  
AND REMANDING FOR FURTHER PROCEEDINGS**

Plaintiff Debra Boone O'Brien filed an application for Disability Insurance Benefits on May 5, 2012, alleging a disability onset date of October 16, 2002, later amended to June 3, 2007. After her claim was initially denied Plaintiff timely requested an administrative hearing, which was held on August 20, 2013. On October 24, 2013 the ALJ issued a written decision finding that O'Brien was not disabled under the Social Security Act. That decision became final when the Appeals Council denied Plaintiff's request for review. Plaintiff then appealed to this Court on June 17, 2015. *See* Compl., ECF No. 1.

Plaintiff O'Brien filed a motion for summary judgment on January 26, 2016. ECF No. 13. Defendant Commissioner then filed a motion for summary judgment on February 9, 2016. ECF No.15. On October 28, 2016 Magistrate Judge Elizabeth A. Stafford issued a report and recommendation. ECF No. 18. Reviewing the Commissioner's decision under a "substantial evidence" standard, the magistrate judge found that the ALJ's determination that O'Brien was not disabled was not supported by substantial evidence. *Id.* This determination was based on

findings that the ALJ misclassified O'Brien's age, did not engage in necessary analysis or meaningful review, and based his decision upon boilerplate conclusions. The magistrate judge therefore recommended that Plaintiff's motion for summary judgment be granted, Defendant Commissioner's motion for summary judgment be denied, and the matter be remanded to the ALJ for proceedings consistent with the report.

Although the magistrate judge's report explicitly stated that the parties to this action could object to and seek review of the recommendation within fourteen days of service of the report, neither Plaintiff nor Defendant filed any objections. The election not to file objections to the magistrate judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). The failure to file objections to the report and recommendation waives any further right to appeal.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation, ECF No. 17, is **ADOPTED**.

It is further **ORDERED** that Plaintiff O'Brien's motion for summary judgment, ECF No. 13, is **GRANTED**.

It is further **ORDERED** that Defendant Commissioner's motion for summary judgment, ECF No. 15, is **DENIED**.

It is further **ORDERED** that this matter is **REMANDED** to the Social Security Administration for further proceedings consistent with this Order and the magistrate judge's report and recommendation.

s/Thomas L. Ludington  
THOMAS L. LUDINGTON  
United States District Judge

Dated: November 17, 2016

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on November 17, 2016.

s/Michael A. Sian  
MICHAEL A. SIAN, Case Manager